

ORDINANCE NO. 20-004

ORDINANCE APPROVING THE AEROVIRONMENT, INC. PROPOSAL FOR AN ECONOMIC DEVELOPMENT PROJECT

WHEREAS, the County of Sierra (the "County"), acting through its Governing Body, is a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State"); and

WHEREAS, Article 9, Section 14 of the State constitution permits counties to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses, provided that adequate safeguards are employed to protect public monies and resources; and

WHEREAS, pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-13 NMSA 1978 (the "Act"), no public support for economic development may be provided until the governmental entity has adopted by ordinance an economic development plan and has approved by a second ordinance an application for a project in keeping with such plan; and

WHEREAS, on December 15, 2015, the Governing Body of Sierra County adopted Ordinance No. 15-006 (the "Economic Development Plan Ordinance") establishing the Sierra County Economic Development Plan (the "Plan") as the County's Local Economic Development Plan as required by Section 5-10-6, NMSA 1978; and

WHEREAS, as provided in the Economic Development Plan Ordinance, the County considered an application from AeroVironment, Inc. which proposed that the County serve as the local government conduit for an appropriation up to \$500,000 from the Legislature of the State of New Mexico (the "LEDA Funds") to go toward the Company's development of a facility at Spaceport America in Sierra County; and

WHEREAS, the County has determined that AeroVironment, Inc. is a "qualifying entity", and the Project is an "economic development project" as those terms are defined by the Act;

NOW, THEREFORE, BE IT ORDERED BY THE DOISA ANA COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Short Title.

This ordinance may be cited as the "AeroVironment, Inc. Economic Development Project Ordinance."

Section 2. Purpose.

The Economic Development Project Ordinance is adopted to approve the Project and the above-identified agreements related to the Project.

Section 3. The Project.

The County hereby approves AeroVironment, Inc. as a qualifying entity and the Project as an economic development project under the Act and Section 5 of the Economic Development Plan Ordinance. This approval is conditioned upon those matters set forth in the Project Participation Agreement to be entered into by the County and AeroVironment, Inc., and all applicable local, state and federal laws.

Section 4. Project Revenue Fund.

The Project Revenue Fund (the "Fund") is hereby established pursuant to the Economic Development Plan Ordinance. All revenue related in any way to the Project shall be deposited into the Fund and any such revenue deposited into the Fund shall be expended only for approved reimbursable expenses related to the Project and upon approval from the New Mexico Economic Development Department and the County. Any unexpended and encumbered balances in the Fund shall be transferred to the New Mexico Economic Development Department upon termination of the Project as set forth in Section 6, herein.

Section 5. Project Agreements.

The County hereby authorizes the County Manager to enter into a Project Participation Agreement, an Intergovernmental Agreement and a Security Agreement that substantially conforms to the forms attached to this Ordinance. Those Agreements shall be incorporated into this Ordinance by reference and made a part of this Ordinance.

Section 6. Termination.

Termination of the Project that is the subject of this Ordinance shall be by a subsequent ordinance. Any termination ordinance shall provide for termination of the above-referenced Agreements and shall provide for satisfying the existing rights of the parties thereunder.

Section 7 Ratification.

The County hereby ratifies and accepts all actions consistent with this Ordinance that the County or its agents may have taken in furtherance of the Project.

Section 8. Severability.

If any section, paragraph, sentence, clause, word, or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

Section 9. Effective Date.

This ordinance shall become effective thirty (30) calendar days after it is approved by the Governing Body of the County of Sierra and recorded in the office of the Sierra County Clerk, as provided in Section 4-37-9, NMSA 1978.

PASSED, APPROVED AND ADOPTED this 18th day of August, 2020.

**BOARD OF COUNTY COMMISSIONERS
SIERRA COUNTY, NEW MEXICO**

James Faxon, Chair

Travis Day, Vice-Chair

Frances Luna, Commissioner

ATTEST:

County Clerk